

**TOWNSHIP OF ALMONT
LAPEER COUNTY, MICHIGAN**

ORDINANCE NO. 56

EMERGENCY FIRE AND POLICE COST RECOVERY ORDINANCE

TITLE

AN ORDINANCE to protect the Township from extraordinary expenses resulting from utilizing Township resources to respond to utility line failures, intentionally set fires, hazardous and toxic material incidents and other emergency responses. This Ordinance authorizes the imposition of charges to be assessed to recover actual costs incurred by the Township in providing emergency fire and police services to residents and non-residents within the Township and repealing any and all ordinances and/or regulations in conflict with this Ordinance.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF ALMONT, LAPEER
COUNTY, MICHIGAN, ORDAINS:**

SECTION 1. TITLE

This Ordinance may be known and cited as the "Emergency Fire and Police Cost Recovery Ordinance".

SECTION 2. DEFINITIONS

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Ordinance, except when the context clearly

indicates a different meaning:

Ambulance Service means the use of an authorized vehicle for transportation, or transportation and treatment, of patients on an emergency basis.

Discharge means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment, which causes danger or harm to the public health or to the environment, including but not limited to the release of any hazardous material as defined in this Ordinance.

Emergency means a condition or situation in which an individual declares a need for immediate medical, fire or police attention, or where such need is declared by emergency medical personnel, fire personnel, police personnel or a public safety official.

Emergency Police Service Usage Fee shall mean a fee determined by resolution of the Township Board for the purpose of recovering costs incurred by the Township in providing emergency police service to residents and non-residents within the Township.

Emergency Fire Service Usage Fee shall mean a fee determined by resolution of the Township Board for the purpose of recovering costs incurred by the Township in providing emergency fire service to residents and non-residents within the Township.

Emergency Response means the provision/utilization of environmental removal and/or cleanup, firefighting, police personnel, emergency medical, crowd control, investigatory, and rescue services by the police and/or fire department, or by a private corporation or governmental or intergovernmental entity or agency operating at the request of or direction of the fire department, as well as sign fabrication and repairs to damage public property undertaken by or at the direction or request of the Fire Chief, Police Chief or their designee. The definition shall include, but not be limited to, the provision/utilization of the Township's firefighting/emergency medical/rescue services, including resuscitator and emergency extrication service, police services (Village Police Department, Sheriff Department or Michigan State Police) to the scene of a fire, accident, utility emergency, hazardous material release, arson, or other emergency situation.

Expense of Emergency Response means the actual cost associated with an emergency response. The expenses of making an emergency response shall include the costs associated with investigation, removal, repair, abatement, mitigation, environmental cleanup and analysis of chemical tests, if applicable.

Hazardous Material means any material(s) classified as hazardous by any

federal regulation or legislation, state legislation or regulation, or any Township Ordinance, including but not limited to the following:

- (1) Any substance listed in the list of toxic pollutants found in 40 CFR§ 401.15, as amended.
- (2) Any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, or radioactive material. As used in this Ordinance, the following terms shall have the following meanings:
 - (a) *CFR* means the Code of Federal Regulations. The numbers immediately preceding and immediately following the initials CFR shall refer to the volumes, divisions and sections used to identify parts of the Code of Federal Regulations.
 - (b) *Compressed gas* means any substance regulated as a compressed gas by the United States Department of Transportation.
 - (c) *Explosive* means any substance regulated as a class A or class B explosive by the United States Department of Transportation.
 - (d) *Flammable liquid* means any substance regulated as a flammable liquid by the United States Department of Transportation.
 - (e) *Flammable solid* means any substance regulated as a flammable solid by the United States Department of Transportation.
 - (f) *Oxidizer* means any substance regulated as an oxidizer by the United States Department of Transportation.
 - (g) *Poison* means a liquid or gas that is life threatening when mixed with air in small amounts, and shall also include all those substances regulated as poison class A by the United States Department of Transportation.
 - (h) *Radioactive material* means any substance required by the United States Department of Transportation to have type A packaging or other special protection or closed transport vehicles.

- (3) Any explosive, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, oxidizing material, any flammable material, poisonous gas, poisonous liquid, irritating material, material that causes disease in humans, gas under such pressure that an explosion hazard exists, radioactive material, corrosive material or liquefied petroleum gas.
- (4) Any substance designated as a hazardous substance pursuant to the Federal Water Pollution Control Act.
- (5) Any element, compound, mixture, solution or substance designated by the United States Environmental Protection Agency (EPA) pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.
- (6) Any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act (commonly known as the Resource Conservation and Recovery Act "RCRA") as amended.
- (7) Any toxic pollutant listed pursuant to the Federal Water Pollution Control Act, as amended.
- (8) Any hazardous air pollutant listed pursuant to Clean Air Act, as amended.
- (9) Any imminently hazardous chemical substance or mixture with respect to which the administrator of the EPA has taken action pursuant to the Toxic Substances Control Act. This term includes petroleum, including crude oil or any fraction of crude oil which is not otherwise specifically listed or designated as a hazardous substance under this Article, and also includes, if stored, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). Hazardous materials shall include radioactive materials and isotopes, and explosives.

Person shall include one or more individuals, corporate, limited liability, unincorporated or partnership entities, joint ventures, associations, joint stock company, including governmental entities and agencies.

Public Property means real and/or personal property of a governmental entity.

Utility Emergency means the disabling of any transmission or service line,

cable, conduit, pipeline, wire, or the like used to provide, collect or transport electricity, natural gas, communication or electronic signals (including, but not limited to, telephone, computers, cable television and stereo signals or electronic impulses), water or sanitary or storm sewage, which necessitate a response by the police, fire fighting and/or emergency response/rescue services or which causes damage to public property.

SECTION 3. RECOVERY OF EXPENSES OF EMERGENCY RESPONSE

A. Recovery of expenses for utility emergency. Any and all persons owning, maintaining or operating a public or private utility, including but not limited to electric lines, telephone lines, cable lines and pipe lines within the Township, shall be responsible for and pay the actual costs and expenses incurred by the Township to respond to, assist, manage, monitor, or remediate any emergency concerning or involving the utility, if the owner or party responsible for maintenance of the utility line fails to respond and institute repairs within one (1) hour of a request to repair or correct the utility line.

B. Recovery of expenses for hazardous and toxic materials. All persons causing or contributing to a discharge or threatened discharge of hazardous materials which result in an emergency response shall be responsible for and pay actual costs and expenses incurred by the Township to respond, to assist, manage, monitor, investigate, or remediate any emergency response involving hazardous or toxic materials.

C. Recovery of expenses for incendiary fires. Any and all persons causing or contributing to the setting of an incendiary type fire shall be responsible for and pay the actual costs and expenses incurred by the Township to respond, to assist, manage,

monitor, investigate or remediate the fire site. Incendiary fires shall include intentionally, negligently, legally and illegally started fires.

D. Actual costs. Actual costs and expenses shall include, but are not limited to, the direct costs, wages, fringe benefits, equipment operation and materials incurred by the fire department, police department, EMS, or any other township department or personnel or any labor services for which the Township had to contract, in responding to the emergency.

E. Recoverable. The Township shall be entitled to recover any and all actual costs and expenses of emergency responses. Such expenses shall include, but are not limited to, any related third-party costs which are necessary to ensure the safety of the Township, its residents and buildings.

SECTION 4. PRESUMPTION OF LIABILITY

A. Property Owner, Lessor or Operator. The owner, lessor, and operator of any property to which there is an emergency response shall be presumed liable for the expense of the emergency response.

B. Vehicle Owner, Lessor or Operator. Any person or vehicle owner/lessee, who owns, leases and/or operates a motor vehicle or other transporter or equipment, the operation of which results in an emergency response, shall be presumed liable for the expenses of the emergency response.

C. Individual. Any individual who is the subject of an emergency response by the Township shall be presumed liable for the expenses of the emergency response.

SECTION 5. RECOVERY OF EXPENSES

A. Records. The Township shall maintain a record of all persons receiving emergency fire and/or police service, an itemized record of recoverable expenses resulting from an emergency action shall be kept. Promptly after completion of an emergency action, the appropriate Township department and personnel shall certify those expenses to the Township Clerk.

B. Collection. The Township shall submit a written itemized claim for the total expenses incurred by the Township for the emergency action to the responsible persons and a written notice that unless the amounts are paid in full within thirty (30) days after the date of mailing the claim and notice, the Township will institute the appropriate legal proceedings to recover such amounts.

1. Non-Resident. The Township shall mail to any non-resident user of the fire and/or police service, a statement detailing the services rendered and the amount of the emergency fire and/or police service usage fee to be charged. In the event the non-resident user has a policy of insurance which would pay for such service, the statement may also be mailed directly to the non-resident's insurance carrier.

2. Resident. In the case of Township residents who utilize emergency fire and/or police services, the Township shall mail a detailed statement of services rendered directly to the resident's insurance carrier. In the event the resident user does not have insurance which would pay for the services rendered by the Township, the resident shall not be responsible for payment of the emergency fire and/or police service usage fee, unless the service fee relates to an intentionally set fire, a hazardous

material event or an accident in which alcohol was a contributing factor or the person was operating while impaired/intoxicated.

C. Appeal. Any person who receives an invoice for recoverable expenses shall have an opportunity to meet with the Township Supervisor or his or her designee to request a modification of recoverable expenses. the person shall request in writing such meeting within thirty (30) calendar days of the date of the invoice assessing the recoverable expenses. If after meeting with the Township Supervisor or his or her designee the person is still not satisfied, he or she may request an opportunity to appear before the Township Board to further request a modification of recoverable costs. A person who desires to appear before the Township Board must first meet with the Township Supervisor or his or her designee as provided above and shall file a written request to appear before the Township Board with the Township clerk within fourteen (14) calendar days of the date of the meeting with the Township Supervisor. Upon receipt of such request, the Township Clerk will place the person on the agenda of the next regularly scheduled Township Board meeting, which meeting is at least fourteen (14) calendar days after the date on which the person files the request to appear. Any filed request to appear shall specifically identify and explain all reasons why the person believes the recoverable expenses should be modified. Failure to timely file a written request to appear shall constitute a waiver of the person's right to appear before the Township Board. After a person has been given an opportunity to appear before it, the Township Board shall promptly determine whether to confirm, modify or void the payment of recoverable expenses invoiced.

D. Court action. If no written request for appeal is received within the specified time, the Township may proceed in a court of appropriate jurisdiction to collect any monies remaining unpaid at the expiration of thirty (30) days from billing.

E. Other remedies. In addition, the Township shall have any other remedy available to the Township by law.

SECTION 6. REPEAL OF CONFLICTING PROVISIONS

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 7. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 8. PUBLICATION

This Ordinance or a summary thereof shall be published in full in a newspaper of general circulation in the Township of Almont within thirty (30) days after its adoption.

SECTION 9. EFFECTIVE DATE

This Ordinance shall take effect the day following the publication of a true copy or summary thereof in a newspaper of general circulation within the Township of Almont.

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of the Township of Almont, Lapeer County, Michigan, at a meeting held on the 13th day of July, 2009.

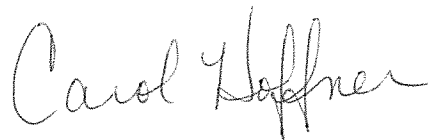
I hereby further certify that the following Township Board Members were present at said meeting: Bowman, Hoffner, Rayl, Eschenburg, Moore, Sweers, Stroup.

and the following Township Board members were absent: None

I further certify that Member Hoffner moved for the adoption of the Ordinance, and that motion was supported by Member Eschenburg.

I further certify that the following Almont Township Board Members voted for the adoption of the Ordinance: Sweers, Hoffner, Rayl, Eschenburg, Stroup, Moore, Bowman.

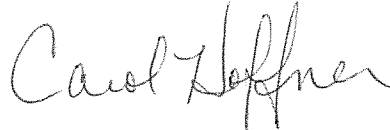
and that the following Almont Township Board Members voted against adoption of the Ordinance: None



Carol Hoffner,
Almont Township Clerk

CERTIFICATE OF PUBLICATION

I, the undersigned Township Clerk of the Township of Almont, do hereby certify that on July 15, 2009, a true copy or summary of the foregoing Ordinance was duly published in a newspaper having general circulation within the Township.



Carol Hoffner,
Almont Township Clerk

**Almont Township Fire Department
 Fee Schedule for Emergency Services
 Ordinance 56**

Fire /Rescue units dispatched	\$1,000-\$1,500	per unit/call to be determined by Officer in Charge
Jaws of Life per victim Extricated	\$800.00	per occurrence
False Alarms after 3 calls	See ordinance 56	
Misc. Fire and Rescue Equipment		
Stabilization Equipment/ Air Bags	\$75.00	hr.
Fire Fighter Labor	\$30.00	hr.
Medical Frist Responder Dispatched	\$250.00	per call/hr.
MFR stand by-two member crew	\$60.00	hr.
Reports		
Incident Reorts	\$20.00	copy
Electronic Copies	Cost of media + report fee	

Revision: Released 1-13-2013